

**REMARKS**

Claims 20-24, 26-30, 32 and 33 are pending in the present application.

This Amendment is in response to the Office Action mailed March 4, 2009. In the Office Action, the Examiner rejected claims 26-29 and 32-33 under 35 U.S.C. § 102(b), and claims 20-24 and 30 under 35 U.S.C. § 103(a).

Applicant has canceled claims 22-23 and 27-33 without prejudice, amended claims 20, 21 and 26, and added claims 34-37. Applicant submits that the newly added claims introduce no new matter. Reconsideration in light of the amendments and remarks made herein is respectfully requested.

**I. REJECTIONS UNDER 35 U.S.C. § 102**

In the Office Action, the Examiner rejected claims 26-29 and 32-33 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,852,501 issued to Maehara ("Maehara"). Applicant respectfully traverses the rejection for the following reasons.

Maehara discloses determining whether a read document is colored or monochrome based on image data of the document, deciding a reading mode, so that a color image is formed, when the read document is colored, and so that a monochrome image is formed, when the read document is monochrome, and rereading the document in the decided reading mode after retuning the document in a reverse direction. Maehara further discloses that it takes longer for an image sensor 25 to read a document as a color multi-value image than as a monochrome binary image. In other words, according to Maehara, a document conveying speed is slower when a document is read as a color multi-value image than when a document is read as a monochrome binary image. Maehara also discloses starting to separate a next document in response to detection of a trailing end of

a document by a document sensor 17. No where in Maehara that discloses the relation between a document reading modes (color/monochrome) and the timing of separating a next document. According to Maehara, the document conveying speed is slower when a document is read in a color mode than in a monochrome mode, but the time from the detection of a trailing end of a document by the sensor 17 until the start of separating a next document is constant, regardless of the reading modes.

To support a 102 rejection, the Examiner must show that “each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” Verdegaal Bro. v. Union Oil Co. of California, 814 F.2d 628, 631 (Fed. Cir. 1987), (MPEP §2131). In addition, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989), (MPEP §2131). Here the Examiner has not pointed out the specific language in Maehara that teaches the relation between a document reading modes and the timing of separating a next document.

In other words, Maehara, taken alone or in any combination, do not disclose, suggest, or render obvious a sensor section provided between a separating section and a document reading position and configured to detect passage of a document separated by the separating section, and a separation control section that controls the separating section so that the timing of starting a separating operation of a next document in a case where the recording mode of the imaging device is the color recording mode is later than the timing of starting a separating operation of a next document in a case where the recording mode of the imaging device is the monochrome recording device .

Since there is no showing of the identical invention in as complete detail as is contained in the claim, Applicant respectfully requests that rejection under 35 U.S.C. §102(b) be withdrawn.

## II. REJECTIONS UNDER 35 U.S.C. § 103

The Examiner rejected under 35 U.S.C. § 103(a) : (1) claims 20-22, 24 and 30 as being unpatentable over Maehara in view of U.S. Patent 6,201,944 issued to Onuki (“Onuki”), and (2) claim 23 as being unpatentable over Maehara in view of Onuki and further in view of U.S. Patent 6,646,768 issued to Anderson (“Anderson”). Applicant respectfully traverses the rejections for the following reasons.

Onuki discloses a manual mode switch for manually selecting color image formation or monochrome image formation and automatic mode switch for automatically selecting color image formation or monochrome image formation. When the automatic mode switch is selected, it is determined whether a document is colored or not, and when the document is colored, a color image is formed. However, the manual mode switch is used not for inputting whether or not a document is a sheet that had been recorded in color, but for inputting whether or not a color image is formed.

Since claim 23 has been canceled, the rejection of claim 23 is now moot.

Maehara, Onuki, taken alone or in any combination, do not disclose, suggest, or render obvious a sensor section provided between a separating section and a document reading position and configured to detect passage of a document separated by the separating section, and a separation control section that controls the separating section so that the timing of starting a separating operation of a next document in a case where the recording mode of the imaging device is the color recording mode is later than the timing of starting a separating

operation of a next document in a case where the recording mode of the imaging device is the monochrome recording device.

Therefore, Applicant believes that independent claims 20, 26 and their respective dependent claims are distinguishable over the cited prior art references. Accordingly, Applicant respectfully requests the rejections under 35 U.S.C. § 102(b) and § 103(a) be withdrawn.

## CONCLUSION

Applicant respectfully submits that all of the claims pending in the application meet the requirements for patentability and respectfully requests that the Examiner indicate the allowance of such claims.

Any amendments to the claims which have been made in this response which have not been specifically noted to overcome a rejection based upon prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

If any additional fee is required, please charge Deposit Account Number 502456.

Should the Examiner have any questions, the Examiner may contact Applicant's representative at the telephone number below.

Respectfully submitted,

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/Caroline Do/

Date

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